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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,566	02/21/2006	Tomonari Sugata	021964/337043	7859
826 7590 08/11/2009 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER BLOUNT, ERIC	
			ART UNIT 2612	PAPER NUMBER
			MAIL DATE 08/11/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/568,566

**Applicant(s)**

SUGATA ET AL.

**Examiner**

ERIC M. BLOUNT

**Art Unit**

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,8-14,20-22,26-36 and 38-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38 and 39 is/are allowed.
- 6) ☒ Claim(s) 1,2,8-14,20-22,26-33,35,36,40 and 42-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 11 and 12** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 11 and 12 recite the limitation "the slide fastener" in lines 2 and 3 respectively. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 13, 20, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by

Prosow [DE 19847834 A1].

As for **claim 1**, Prosow discloses a fastener (zipper) having fixing means attached thereto and tape to be secured to a securement subject herein an identification medium is attached at a position of the tape to be covered with the securement subject (see abstract and Figures 1-4).

Regarding **claims 13 and 20**, Prosow shows a slide fastener having a fastener tape to be secured to a securement subject, wherein an identification medium is attached in the vicinity of an end stop of the fastener tape (see Figures 1 & 2).

As for **claim 22**, the identification means is attached to the end stop detachably (Prosow teaches that the identification means is detachable, however the function of the tag is destroyed. Having the capability to remove the identification medium reads on the claimed limitation.)

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 2, 8-11, 14, 32, 33, 40, 42, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prosow as applied to the claims above.

With regard to **claim 2**, Prosow does not specifically disclose in the English abstract that the identification medium is a radio IC chip. However, examiner takes official notice that radio IC chips were well known and commonly used in identification and tracking systems at the time of the invention by the applicants. Therefore, it would have been obvious to the skilled artisan to make use of the well known radio IC chip as the identification means in the Prosow invention.

As for **claim 8**, the claim is interpreted and rejected using the same reasoning as claims 1 and 2 above. Prosow shows the antenna elements in Figures 1 & 2.

Regarding **claim 9**, examiner takes official notice that it was known in the art for an antenna to be knitted or woven into a garment or cloth material. Having this knowledge, it would have been obvious to the skilled artisan to try weaving or knitting the antenna into the fastener tape of Prosow so that the presence of the identification components would be inconspicuous from the outside of the garment and difficult to defeat.

As for **claims 10 and 11**, several methods for mounting and/or attaching an identification medium and its components to a substrate/structure were well known in the art at the time of the invention by the applicant. The skilled artisan would have good reason to pursue any known method for mounting and/or attaching the antenna to the fastener tape.

As for **claim 14**, the claim is interpreted and rejected using the same reasoning as claim 2 above.

As for **claim 32**, the claim is interpreted and rejected using the same reasoning as claims 1 and 2 above.

As for **claim 33**, the claim is interpreted and rejected using the same reasoning as claim 22 above.

As for **claim 40**, the claim is interpreted and rejected using the same reasoning as claims 1 and 2 above.

As for **claims 42 and 43**, the claim is interpreted and rejected using the same reasoning as claims 1 and 2 above. The garment on which the fastener is placed acts as a shielding means which affect the communication with the IC chip.

7. Claims 21, 26-31, 35, 36, and 44-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prosow as applied to the claims above, and further in view of Sanko [JP 2002-125721].

As for **claims 21 and 26-29**, while Prosow discloses that an identification medium is attached to a fastener element, Prosow does not specifically teach that the identification medium is attached to fixing means. In an analogous art for a fastener having an identification medium, Sanko discloses that it was known to incorporate the identification medium into the pull tag of the slide fastener (see abstract and drawings). Having both references on hand, one possessing ordinary skill in the art would have recognized that the identification medium could be placed at various locations associated with fastener. Therefore, it would have been obvious for the skilled artisan to try placing the identification medium at various locations around and on the fastener to determine which arrangements yielded the best results for different applications.

As for **claim 30**, the claim is interpreted and rejected using the same reasoning as claim 22 above.

As for **claim 31**, the claim is interpreted and rejected using the same reasoning as claims 26-29 above. Sanko shows in the Figures that an identification member is attached to an ornament member that is detachably attached to a pull tab.

As for **claims 35 and 36**, the claims are interpreted and rejected using the same reasoning as claims 26-29 above. The garment on which the fastener is placed acts as a shielding means which affect the communication with the IC chip.

As for **claim 44**, Sanko shows in the Figures that an identification member is attached to an ornament member that is detachably attached to a pull tab.

Regarding **claims 45-53**, examiner contends that each type of claimed fastener was known in the art at the time of the invention by the applicant. The type of fastener used in the invention is viewed as a matter of engineering preference that would be left to the artisan. Further, having the teachings from both Prosow and Sanko, it would have been obvious to the skilled artisan to try the invention of Prosow with different types of fasteners.

#### ***Allowable Subject Matter***

8. Claims 38 and 39 are allowed.
9. Claims 34 and 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC M. BLOUNT whose telephone number is (571)272-2973. The examiner can normally be reached on Monday-Thursday 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin C. Lee can be reached on (571) 272-2963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eric M. Blount  
Primary Examiner  
Art Unit 2612

/Eric M. Blount/  
Primary Examiner, Art Unit 2612